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BILL ANALYSIS

Senate Fiscal Agency

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MICHIGAN STATE LAW LIBRARY

Senate Bill 69 (as enrolled)

Senate Bill 71 (as enrolled)

Senate Bill 73 (as enrolled)

Sponsor: Senator Vern Ehlers (Senate Bills 69 & 73)

Senator John J. H. Schwarz, M.D. (Senate Bill 71)

Senate Committee: Health Policy

House Committee: Public Health

PUBLIC ACT 21 of 1990PUBLIC ACT 13 of 1990PUBLIC ACT 14 of 1990

Date Completed: 2-13-91

RATIONALE

Public concern in Michigan over the handling and disposal of medical debris had been aroused with reports of hypodermic syringes and other medical waste washing up on Lake Michigan shorelines in Oceana and Mason Counties and the temporary closing of beaches in Oceana County. These incidents were among a number of occurrences from around the country that involved the disposal of medical waste: the discovery of used hypodermic syringes on Lake Erie beaches in Cleveland; the closing of beaches in New York and New Jersey due to medical debris, including syringes that contained blood infected with the virus that causes Acquired Immunodeficiency Syndrome (AIDS), washing ashore; and, reports of children in Indiana found playing with waste contaminated with the human immunodeficiency virus (the cause of AIDS) from the illegal dumping of medical waste in an alley dumpster. Such incidents have raised questions about regulating the handling, containment, and disposal of medical waste in Michigan.

CONTENT

Senate Bill 69 would amend the Public Health Code to:

- Prescribe separate procedures for the containment of medical waste that would have to be followed by producing facilities with on- or off-site incineration.
- Prescribe procedures for the storage,

decontamination, and disposal of medical waste.

- Require a health facility or agency as well as persons licensed under the Code who owned and/or operated a private practice office to comply with the bill.
- Establish registration fees for certain producing facilities.

The bill is tie-barred to House Bill 4136 (Public Act 18 of 1990), which amended the Code to create the Medical Waste Regulatory Act. The bill specifies that it would take effect 90 days after it was enacted.

Senate Bill 71 would amend the Mental Health Code to require a mental hospital, psychiatric hospital, psychiatric unit, or hospital operated or licensed by the Department of Mental Health to comply with the Medical Waste Regulatory Act.

Senate Bill 73 would amend the Solid Waste Management Act to prohibit a person from knowingly disposing of, and an owner or operator of a landfill from knowingly permitting the disposal of medical waste, as defined in Senate Bill 69, in a landfill unless that medical waste had been decontaminated or was not required to be decontaminated but was packaged in the manner required under Senate Bill 69.

Senate Bills 71 and 73 are tie-barred to Senate

Bill 69 and House Bill 4136. Both bills would take effect 90 days after being enacted.

A more detailed description of Senate Bill 69 follows.

Containment and Off-Site Incineration

A producing facility (a facility that generated, stored, decontaminated, or incinerated medical waste) that did not incinerate medical waste on-site would have to do the following to contain medical waste:

- Package, contain, and locate medical waste in a manner that protected and prevented the medical waste from release (spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of medical waste into the environment in violation of the bill) at the producing facility or at any time before ultimate disposal.
- Separate the categories of medical waste at the point of origin into appropriate containers, and label the containers with a biohazard symbol or the words "medical waste" or "pathological waste" in letters at least one-inch high. ("Pathological waste" would mean human organs, tissues, body parts other than teeth, products of conception, and fluids removed by trauma or during surgery or autopsy or other medical procedure, and not fixed in formaldehyde.)
- Not compact or mix medical waste with other waste materials before decontamination, incineration, and disposal. ("Decontamination" would mean rendering medical waste safe for routine handling as solid waste.)
- Clearly label a container to indicate that it contained decontaminated medical waste, if decontaminated medical waste were mixed with other solid waste.
- Store medical waste in a manner that prevented putrefaction and prevented infectious agents from coming in contact with the air or with individuals. ("Storage" would mean the containment of medical waste in a manner that did not constitute disposal of the medical waste. "Infectious agent" would mean a pathogen--a microorganism that produced

disease--that was sufficiently virulent so that if a susceptible host were exposed to the pathogen in an adequate concentration and through a portal of entry, the result could be transmission of disease to a human.)

- Store the medical waste in a secured area or locked in a container that weighed more than 500 pounds and prevent access to the area or container by vermin or unauthorized individuals, if medical waste were stored outside of the producing facility.
- Not store medical waste on the premises of the producing facility for more than 90 days.

("Medical waste" would mean any of the following that were not generated from a household, a farm operation or other agricultural business, a home for the aged, or a home health care agency: cultures and stocks of infectious agents and associated biologicals, including laboratory waste, biological production wastes, discarded live and attenuated vaccines, culture dishes, and related devices; liquid human and animal waste, including blood and blood products and body fluids, but not including urine or materials stained with blood or body fluids; pathological waste; sharps (needles, syringes, scalpels, and intravenous tubing with needles attached); and, contaminated wastes from animals that had been exposed to agents infectious to humans, those being primarily research animals.)

Containment and On-Site Incineration

A producing facility that incinerated medical waste on site would have to do all of the following to contain medical waste:

- Package, contain, and locate medical waste in a manner that protected and prevented the medical waste from release at the producing facility or at any time before ultimate disposal.
- Separate and dispose of sharps in the manner described in the bill.
- Label the containers with a biohazard symbol or the words "medical waste" or "pathological waste" in letters at least one-inch high.
- Not store medical waste on the producing facility's premises for more than 90 days.

Storage and Disposal

A producing facility would have to store, decontaminate, and dispose of medical waste according to the following:

- Cultures and stocks of material contaminated with an infectious agent would have to be stored in closed, puncture-resistant containers, decontaminated by autoclaving (sterilizing using superheated steam under pressure) or incineration, and disposed of in a sanitary landfill.
- Blood and blood products and body fluids would have to be disposed of by one or more of the following methods: flushing down a sanitary sewer; decontaminating by autoclaving or incineration; solidifying; transferring to a sanitary landfill, if not in liquid form; and/or using a process approved by the Department of Public Health.
- Pathological waste would have to be disposed of by one or more of the following methods: incinerating or cremating; grinding and flushing into a sanitary sewer; burying in a cemetery, if transported in leakproof containers sufficient to prevent rupture; grinding until unrecognizable, storing in closed, puncture-resistant, properly labeled containers, and, if not in liquid form, disposing of in a sanitary landfill; and/or using a process approved by the Department.
- Sharps would have to be disposed of by one of the following methods: placing in rigid, puncture-resistant containers that were appropriately labeled and transported to a sanitary landfill in a manner that retained the integrity of the container; incinerating or decontaminating and grinding that rendered the objects unrecognizable, with ground sharps having to be placed in a sealed, rupture-resistant container and transported to a sanitary landfill; or, using a process approved by the Department. ("Transport" would mean the movement of medical waste from the point of generation to any intermediate point and finally to the point of treatment or disposal. "Transport" would not include the movement of medical waste

from a health facility or agency to another health facility or agency for testing and research.)

- Animal waste contaminated with organisms infectious to humans would have to be disposed of by incineration or by burial in a sanitary landfill in properly labeled, double containers that were leakproof and puncture-resistant and were tightly sealed to prevent escape of fluids or material. Contaminated animal organs disposed of separately would have to be rendered unrecognizable.

Registration Fee

A producing facility would have to submit the following registration fee with the registration form, as required under House Bill 4136:

- \$75 for a health facility or agency other than a hospital and for a facility that was not a health facility or agency.
- \$150 for a health facility or agency that was a hospital with 150 or more licensed beds or a clinical laboratory.

Proposed MCL 333.13803 et al. (S.B. 69)

MCL 330.1147 et al. (S.B. 71)

Proposed MCL 299.413b (S.B. 73)

BACKGROUND

At the Federal level, on November 1, 1988, the Medical Waste Tracking Act of 1988 was signed into law. Among other things, the Act requires the U.S. Environmental Protection Agency to establish a two-year demonstration program for tracking medical waste generated in states subject to the law. The regulations establishing the program must include a list of medical wastes to be tracked and minimum standards for segregation from other wastes, packaging, and labeling before transport to treatment and/or disposal. Facilities that incinerate medical waste on-site also are subject to certain reporting requirements.

These regulations apply to medical waste generators in states that participate in the program. Under the Act, participation is mandatory for Connecticut, New Jersey, and New York. The law also included the Great Lakes states, but allowed them to opt out of the program within 30 days of the promulgation of

the regulations, which gave them a deadline of April 24, 1989. According to the Director of the Office of the Great Lakes in the Department of Natural Resources, Michigan and the other of the Great Lakes states have chosen not to be covered by the Federal law.

FISCAL IMPACT

Senate Bill 69

The bill would result in an increase of approximately \$500,000 in producing facility registration fee revenues every three years. The Department would experience an increase in regulatory activities and expenditures as well. The FY 1989-90 appropriation for medical waste disposal regulatory activities was \$500,000. Expenditures for these activities in FY 1989-90 were approximately \$170,000.

Senate Bill 71

The bill would result in an indeterminate increased cost to the State by expanding certain precautionary controls, requiring the installation of special equipment, and assessing fees. There are four State mental health facilities that operate a clinical laboratory, which is licensed by the State Department of Public Health. The following new requirements would result in increased costs: the use of biological safety cabinets or other physical containment devices, the installation of double-door entry into the laboratory, and the installation of a ducted exhaust air-ventilation system. In addition, required registration fees of \$1,500 to \$2,300 could be assessed for the 10 to 15 facilities that have 150 or more licensed beds.

Senate Bill 73

The bill would have an indeterminate fiscal impact on State and local government by potentially expanding the caseload for law enforcement, judicial, and corrections agencies while also generating revenue through fines.

ARGUMENTS

Supporting Argument

The discovery of medical debris on Michigan beaches several years ago dramatized the need for State regulation of the disposal of such wastes. In a time when medical wastes can

include deadly carcinogens or even the AIDS virus, those who dispose of such wastes should be closely regulated. The bills, which would place into law guidelines for the handling, containment, and disposal of medical waste, represent a reasoned response to the medical waste problem.

Opposing Argument

State regulation of medical waste is indirect and fragmented and is governed by a variety of laws with the authority to oversee medical waste management and disposal practices divided between the Departments of Natural Resources and Public Health. While these bills would deal with certain aspects of handling and disposing of medical debris, there are still concerns that other factors involved in medical waste management need to be addressed. For example, some people have proposed that a manifest system be developed for tracking the handling of medical waste from the generator, to the hauler, to the disposal facility in order to assure that this waste would, indeed, end up at a disposal facility and not wash up on a beach or merely be disposed of in a dumpster.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.